

9/5
B 17/2

LAW OFFICES OF
Eckberg, Lammers, Briggs, Wolff & Vierling, P.L.L.P.

1835 Northwestern Avenue
Stillwater, Minnesota 55082

(612) 459-2878

FAX (612) 459-2925

February 11, 1997

Susan D. Olson
David K. Snyder

Paul A. Wolff
(1944-1996)

*Qualified Neutral Arbitrator & Mediator
◆Qualified Neutral Arbitrator
*Certified Real Estate Specialist

Lyle J. Eckberg
James F. Lammers
Robert G. Briggs◆
Mark J. Vierling★
Gregory G. Galler◆
Kevin K. Shoberg
Thomas J. Weidner

Ms. Dorothy Conway
Federal Communications Commission
Room 234
1919 M Street N.W.
Washington D.C. 20554

DOCKET FILE FOR ORIGINAL

FEB 14 1997

In Re: Video Programming Accessibility

Dear Ms. Conway:

I write to you on behalf of the City of Grant in Washington County, Minnesota. The City of Grant is a newly formed City of approximately 4,200 citizens. The City of Grant has been considering whether or not its City Council and Planning Commission meetings should be broadcast on the local cable access channel. The City is concerned that the FCC's proposed regulations regarding video programming accessibility will require closed captioning of City Council meetings and City Planning Commission meetings. It is the intent of this letter to provide comments to the FCC regarding why Grant believes it and others like Grant should be exempt from the closed captioning requirement.

A. Practical Difficulties.

The City of Grant is concerned that, if they decided to broadcast their meetings, they would be unable to provide closed captioning services. City Council meetings, to be most effectively broadcast, need to be broadcast within a short time of the occurrence of the actual meetings. The issues discussed at the meeting are time sensitive and the broadcasts are most helpful to the citizenry if they are able to sit in the comfort of their own home and watch the Council proceedings. (This is especially important in the winter months in Minnesota when roads can become impassable.)

At Paragraph 24 of your Notice of Proposed Rule Making, you cite the statistic that in the United States there are only a total of between 83 and 100 individuals skilled in performing the service known as "stenocaptioning." If one were to assume on a best case scenario that these individuals were equally distributed across the country, that would leave two qualified people in the State of Minnesota. However, as there are over 100 municipalities just in the Twin Cities metropolitan area alone, it seems very unlikely that the tiny City of Grant would be able to reserve the services of one of these individuals.

16. of Copies rec'd
List ABCDE

Ms. Dorothy Conway
February 11, 1997
Page 2

You also mention in Paragraph 20 that it is estimated that the cost of "real time captioning for live programming is estimated to be between \$120 and \$1200 an hour." Plainly stated, the City of Grant could not afford this expense.

B. Viewing Audience.

In addition to the practical difficulties for the City of Grant in actually finding a stenocaptioner to close caption their meetings, there is no real practical benefit to be provided to the citizens of Grant. The City of Grant has approximately 1,300 households. Of those households, only 378 homes receive cable television. While the City Council would like to see all of its citizens take an active participatory role in local government, it is unlikely that more than five to ten percent would actually tune in to watch the broadcast meetings. By any objective measurement, an audience of 20 to 35 homes represents a very small viewership. Of the 20 to 35 homes projected to take advantage of cable broadcast of the meetings, a lesser percentage would have any sort of hearing disability wherein closed captioning would provide any benefit to them. Consequently, the costs incurred by Grant in order to broadcast its meetings would seem to be cost prohibitive given the very small audience which would be viewing that programming.

C. Alternatives.

Grant is certainly sensitive to the concerns of the hearing disabled. At Paragraph 68 of your request for comments, you note the following: "One commentator states that it is particularly important for locally produced programming to be captioned so that persons with a hearing disability may fully participate in their community affairs." Grant agrees that all individuals need to be given a full opportunity to participate in community affairs. However, Grant does provide other options for its citizens to become aware of what is happening in local government.

First, Minnesota has a law known as the "Data Practices Act." This law allows any citizen to review virtually any documents held by the City. Consequently, for any issue that comes before the City Council (i.e. zoning decisions, ordinance decisions, developments, etc.), any citizen can review all written documents that the City has in its possession. Documents are available at least several weeks in advance of the monthly meetings. Meeting agendas are also available to the public. Citizens are also allowed to make photocopies and take home with them all such documents.

Second, all City Council meetings have written minutes prepared summarizing the discussions that took place and summarizing all motions which were made (whether approved or not). Citizens also have free access to these minutes.

D. Chilling Effect.

At Paragraph 58 of your request for comments, you indicate that some commercial broadcasters are objecting to requiring closed captioning on their "library programs." It is their position that the costs are high enough for closed captioning that they may be better off simply not offering these programs for broadcast. The down side is that this may result in fewer programs being offered to viewers. Similarly, if the City of Grant is forced to choose between broadcasting its programming with closed captioning (at a cost they simply cannot afford) or not broadcasting at all, I believe it is likely that small communities such as Grant will choose instead not to broadcast their meetings as they simply cannot afford the prohibitively high costs of closed captioning.

E. Economic Burden.

The City certainly appreciates the FCC's efforts into determining which classes of broadcasters should be exempted from the regulations "where the economic burden of captioning these programming types outweighs the benefits to be derived from captioning and, in some cases, the complexity of adding the captions." See Paragraph 70. It is the City's belief that programs such as those proposed by the City of Grant should be wholly exempted out of closed captioning requirements.

In Paragraph 71, you outline possible factors to look at in determining economic burden. I would like to address each of those proposed factors.

1. Relative Market Size. The market size at issue here is very small, estimated to be between 20 and 35 homes. By any definition, this is a tremendously small market size, small enough that I would assume there is no way of measuring any "ratings" or "share."
2. Programming Budget or Revenue Base. Plainly stated, the City of Grant has no programming budget of any kind, and its revenue base (i.e. City taxes) is already earmarked for road improvements and other similar services. There is simply no budget for cable broadcasting or for closed captioning.

It is important to note that, if the City of Grant were to decide to do cable broadcasting, the local cable access franchise would provide all necessary cameras and other equipment free of charge to the City. The City has no idea what sort of programming budget or revenue base the cable franchisee has.

Ms. Dorothy Conway
February 11, 1997
Page 4

3. Lack of Repeat Value. As you might imagine, City Council meetings are typically broadcast one time as meetings are held monthly. What has happened in preceding months is of no future broadcasting value whatsoever. The programs would be broadcast once and never played again.

In order to put this matter into better perspective, I think it is important to outline for you the costs the City could incur for closed captioning. The City of Grant has one City Council meeting per month. That meeting lasts approximately 3.5 hours (on average). The City also has one Planning Commission meeting per month. That meeting (on average) last approximately 2.0 hours. This means the City would be broadcasting approximately 5.5 hours of meetings per month for a total of approximately 66 hours per year.

In Paragraph 20 of your Request for Comments, you give a range of between \$120 to \$1,200 per hour as the cost of closed captioning live broadcasts. This means the City would incur costs between \$7,920 per year and \$79,200 per year. The City of Grant has an annual budget of only \$325,000.00. Consequently, it is possible that closed captioning could use up twenty-four percent (24%) of the City's annual budget. The City could not afford this.

F. Conclusion.

While the City is very concerned about the needs of its citizenry, it is the City's position that if closed captioning is to be required for its cable broadcasts, it is most likely to choose not to broadcast its meetings. While the goal of the video Programming Accessibility Regulations are admirable and necessary for many broadcast programs, the City of Grant asks the FCC to be sensitive to the tremendous burdens these regulations would place upon small communities such as the City of Grant.

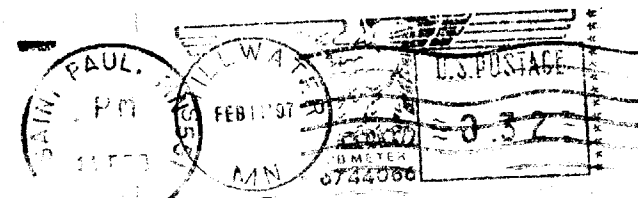
I appreciate your allowing us the opportunity to comment on these proposed regulations. If we can provide you with any further information or comments, please let us know.

Yours very truly,


Gregory G. Galler
City Attorney

GGG:dmr
c: Deborah Graul, City Clerk/Administrator
Mayor, City of Grant
Grant City Council

LAW OFFICES OF
ECKBERG, LAMMERS, BRIGGS,
WOLFF & VIERLING, P.L.L.P.
1835 NORTHWESTERN AVENUE
STILLWATER, MINNESOTA 55082



RECEIVED
FEB 14 1997

FED MAIL ROOM

MS. DOROTHY CONWAY
FEDERAL COMMUNICATIONS COMMISSION
ROOM 234
1919 M STREET N.W.
WASHINGTON D.C. 20554

